

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

KENT DAVENPORT,)	CASE NO. 4:05 CV 2689
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
vs.)	
)	
DAVID BOBBIE, <u>et al.</u> ,)	<u>ORDER</u>
)	
Defendants.)	

This court dismissed pro se prisoner Kent Davenport's civil rights complaint pursuant to 28 U.S.C. § 1915(e) on February 14, 2006. On March 10, 2006, he filed a request seeking "Permission to Appeal" and for a 45 day extension of time within which to file a Notice of Appeal pursuant to Rules 5 and 26 of the Federal Rules of Appellate Procedure. The request is now before this court.

Inasmuch as the matter from which Mr. Davenport seeks to appeal is final order from this court, permission is not required pursuant to Federal Appellate Rule 5.¹ Moreover,

¹Under the Federal Rules of Appellate Procedure it is an interlocutory order that may be appealed pursuant to 28 U.S.C. § 1292(b) and Rule 5(a), if the trial court certifies the question for appeal and the appellant seeks permission from the appellate court to appeal within ten (10) days.

Rule 26 addresses the rules which apply in computing time under the relevant appellate and local rules. It does not address requests for an extension of time to file a Notice of Appeal. As such, the court construes Mr. Davenport's request as a Motion for Extension of Time to file a Notice of Appeal pursuant to Rule 4(a)(5) of the Federal Rules of Appellate Procedure.

Consistent with Appellate Rule 4, Mr. Davenport timely filed his request for an extension. FED. R. APP. P. 4(5)(A). The court is not permitted to grant an extension more than 30 days after the time limit prescribed under Appellate Rule 4(a)(1)(A) for filing a Notice of Appeal. Therefore, Mr. Davenport is granted leave to file the attached "Notice of Appeal," Form 6CA-3, within 30 days after the time to appeal prescribed by Rule 4, or no later than April 16, 2006.

S/Peter C. Economus - 3/29/06
PETER C. ECONOMUS
UNITED STATES DISTRICT COURT